

**Application of the Confederated Tribes of the Umatilla Indian Reservation
for permission to exercise SDVCJ authority prior to March of 2015**

The Right to Trial by an Impartial Jury

1. In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe provide to the defendant the right to a trial by an impartial jury that is drawn from sources that reflect a fair cross section of the community and do not systematically exclude any distinctive group in the community, including non-Indians? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. Criminal Code §3.19(A) establishes jury eligibility, which in pertinent part reads, “Any resident within the boundaries of the Umatilla Indian Reservation of the age of 18 or over is eligible to be a juror regardless of race or tribal citizenship. A list of eligible jurors shall be kept by the Clerk of the Court and a record of each juror’s services as a juror shall be noted thereon.” Criminal Code §3.19(B) further establishes that the Judge selects 50 names from the list of eligible jurors and each is notified of their selection. The list comprises the trial jury list for the ensuing year from which jury panels are selected from time to time. The jury panel consists of not less than 18 names. In practice, the Court Clerk obtains a voter list from the county that represents a rough overlay of the reservation boundaries. The jury pool is randomly selected from this list. Criminal Code § 3.28(F) further reads that, “In any criminal proceeding, a defendant has a right to an impartial jury drawn from sources that reflect a fair cross section of the community and do not systematically exclude any distinctive group in the community, including non-Indians.”

All laws of the Confederated Tribes can be found online here: <http://ctuir.org/docs.html>.

The Right to Effective Assistance of Counsel

2. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. Criminal Code § 3.28(B) reads, “Every defendant has the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution.” Court Rule #11 also provides that the presiding judge approves or denies admissions to practice in the Tribes’ court. The rule further provides that any person who is an active member in good standing of any tribal or state bar association is eligible for admission to the bar of the Umatilla Tribal Court. In practice, on criminal cases, the Confederated Tribes appoints a public defender to any person who requests one. The public defender pool consists of various State licensed attorneys in good standing who practice law in the surrounding communities.

The Right to Indigent Defense Counsel

3. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe provide to each indigent defendant, at no cost to the defendant, the right to the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate

professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. Criminal Code §3.28(C) reads, “The Tribes shall provide any indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States, including tribes, provided that jurisdiction applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.” Pursuant to Criminal Code §3.11(D)(4)(a), at arraignment, all defendants are informed that they have a right to counsel and a right to a continuance to obtain counsel. They are further informed that if they cannot afford counsel, one will be appointed for them at the expense of the Tribes. Court Rule #11 also provides that the presiding judge approves or denies admissions to practice in the Tribes’ court. The rule further provides that any person who is an active member in good standing of any tribal or state bar association is eligible for admission to the bar of the Umatilla Tribal Court. In practice, on criminal cases, the Confederated Tribes appoints a public defender to any person who requests one, including on appeal. The Court has issued a directive listing income requirements to be considered indigent, which reserves the right to appoint a public defender regardless of income (in part to continue its current practice so long as resource allow). The public defender pool consists of various state bar licensed attorneys in good standing who generally practice law in the surrounding communities.

4. For each licensed defense attorney that the Tribe anticipates will be appointed to represent an indigent defendant in a criminal proceeding in which the Tribe will exercise SDVCJ during the Pilot Project (i.e., prior to March 7, 2015) and in which a term of imprisonment of any length may be imposed, please provide a list of all jurisdictions in which the defense attorney is licensed to practice law. Please provide a separate list of jurisdictions for each attorney (who can be identified either by name or anonymously as “Attorney 1,” “Attorney 2,” etc.).

Jon Lieuallen, Oregon State Bar Association, CTUIR

David Blanc, Oregon State Bar Association, CTUIR

Dawn E. Hickman, Washington State Bar Association, CTUIR

Danielle Purcell, Washington State Bar Association, CTUIR

The Right to a Law-Trained, Licensed Judge

5. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe provide to the defendant the right to a criminal proceeding presided over by a judge who has sufficient legal training to preside over criminal proceedings and is licensed to practice law by any jurisdiction in the United States? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. Criminal Code §3.28(D) reads, “In any criminal proceeding, the presiding judge shall: (1) have sufficient legal training to preside over criminal proceedings; and (2) be licensed to practice law by any jurisdiction in the United States, including the tribes.”

Court Code §2.02(D) reads, “Any judge presiding over a criminal trial shall be a member in good standing of any state bar and a graduate from an accredited law school.” Furthermore, Chapter 4 of the Court Code sets out rules of judicial conduct, similar to those governing state and federal judges.

6. For each judge that the Tribe anticipates will preside over a criminal proceeding in which the Tribe will exercise SDVCJ during the Pilot Project (i.e., prior to March 7, 2015) and in which a term of imprisonment of any length may be imposed, please provide (a) a brief description of the judge’s legal training to preside over criminal proceedings, and (b) a list of all jurisdictions in which that judge is licensed to practice law. Please provide a separate answer for each judge (who can be identified either by name or anonymously as “Judge 1,” “Judge 2,” etc.).

William Johnson. The current presiding judge has over 30 years of experience as a judge in criminal cases in tribal court. He is a member in good standing of the State of Oregon Bar and a graduate of the University of Oregon Law School. He is also president of the Board of Directors for the National Indian Justice Center. He is a member of the Confederated Tribes of the Umatilla Indian Reservation.

David Gallaher. The attorney serving as a judge pro tempore from time to time on an as needed basis since 1978 is a member of the State of Oregon Bar in good standing and has been in active practice since 1974. He was the elected District Attorney for Umatilla County, Oregon for over 2 years where he handled felony and misdemeanor criminal prosecutions. He is licensed to practice in the Umatilla Tribal Court as well as the Burns Paiute Tribal Court. He is a graduate of the Lewis & Clark Law School.

The Right to Publicly Available Tribal Laws and Rules

7. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe, prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. All of the Tribes’ laws and court rules are online here: <http://ctuir.org/docs.html>.

The pertinent codes or documents are the Treaty of 1855, the Constitution and Bylaws of the CTUIR, Court Code, Rules of Court, Court Rules of Evidence, Criminal Code, SB 412 Implementation Code, and Sex Offender Registration Code. All published court decisions can be obtain at the court, which is open and available to the public. However, the only published tribal court decisions with binding precedential value to date relate to tax issues.

The Right to Records of the Criminal Proceeding

8. In a criminal proceeding in which the Tribe will exercise SDVCJ and in which a term of imprisonment of any length may be imposed, will the Tribe maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. Criminal Code § 3.28(E) reads, “In any criminal proceeding, the court shall maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.” In practice the Court Clerk records all proceedings through the use of a digital recording device. Each counsel table, the witness stand, and the judge’s bench have microphones attached to the recording device and a telephone intercom is at one counsel table next to a microphone so any telephonic presence can be clearly recorded as well. Recordings are retained for 10 years and any party that requests a copy of the recording can obtain one free of charge. If a written transcript of the proceeding is required by the Appellate Court, a free transcription of the recording is provided to indigent defendants.

The Right to Timely Notice of Federal Habeas Corpus Rights

9. Will the Tribe provide to each person detained by order of the Tribe timely notice of the person’s rights and privileges to file in a court of the United States a petition for a writ of habeas corpus under 25 U.S.C. 1303 and a petition to stay further detention under 25 U.S.C. 1304(e)? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right to timely notice.

Yes. Criminal Code § 3.28(G) reads, “Every defendant has the privilege of the writ of habeas corpus in a court of the United States to test the legality of their detention by order of the Confederated Tribes. (1) Every defendant who has been detained in jail by the Confederated Tribes shall be notified of this right and any additional rights and privileges they are entitled to under 25 U.S.C. 1304(e).” Pursuant to Criminal Code §3.11(D)(4)(j), every defendant is informed at arraignment that they have, “The right to

file a writ of habeas corpus in the United States District Court if the defendant feels his rights have been violated.” Also, in practice, every defendant who is taken into custody by the Tribes is given a form that informs them of their right to habeas under 25 USC 1303 and the right to petition for a stay under 25 USC 1304(e). That form includes the following language:

***NOTICE OF RIGHT AND PRIVILEGES OF HABEAS CORPUS PETITION IN
FEDERAL COURT***

- 1. If you are detained by the Confederated Tribes of the Umatilla Indian Reservation, pursuant to 25 U.S.C. §1303, you have the privilege of the writ of habeas corpus in a court of the United States to test the legality of your detention.*

- 2. In accordance with 25 U.S.C. §1304(e)(1), if you file a petition for a writ of habeas corpus in a court of the United States under 25 U.S.C. §1303, you may petition that court to stay further detention by the Confederated Tribes.*

- 3. Pursuant to 25 U.S.C. §1304(e)(2), the court of the United States shall grant a stay of detention if that court finds there is a substantial likelihood that the habeas corpus petition will be granted, and after giving each alleged victim in the matter an opportunity to be heard, the court finds by clear and convincing evidence that under conditions imposed by that court, you are not likely to flee or pose a danger to any person or the community if released.*

I received a copy of this notice on _____, 20_____.

Defendant's signature: _____

Defendant's name (print): _____

Other Rights Protected by the Indian Civil Rights Act of 1968

10. In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe provide to the defendant all applicable rights under the Indian Civil Rights Act of 1968, as amended, including but not limited to (a) the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, and not to be subjected to a warrant unless it was issued upon probable cause, was supported by oath or affirmation, and particularly described the place to be searched and the person or thing to be seized; (b) the right not to be twice put in jeopardy for the same offense; (c) the right not to be compelled to be a witness against himself; (d) the right to a speedy and public trial; (e) the right to be informed of the nature and cause of the accusation; (f) the right to be confronted with the witnesses against him; (g) the right to have compulsory process for obtaining witnesses in his favor; (h) the right to be free from excessive bail; (i) the right to be free from excessive fines; (j) the right against cruel and unusual punishments; (k) the right to the equal protection of the Tribe's laws; (l) the right not to be deprived of liberty or property without due process of law; (m) the right not to be subjected to an ex post facto law; and (n) the right to a trial by jury of not less than six persons? Please answer "Yes" or "No." Please provide relevant legal materials detailing the safeguards that the Tribe's criminal justice system has in place to protect these rights.

Yes. Criminal Code §3.28(A) reads, “Every defendant is entitled to those rights enumerated in the Indian Civil Rights Act, 25 U.S.C. 1302.” This provision incorporates all rights enumerated above and guaranteed under the Indian Civil Rights Act in its present form and any and all rights that may be guaranteed in future amendments to that Act. In addition, certain other sections of the Criminal Code have a bearing on the same rights. Searches and Seizures are further covered by Criminal Code §3.07-§3.10 for seizures and 3.23(D) for searches and seizures. Criminal Code §3.23 more explicitly reads that a defendant cannot be compelled to testify as a witness. Criminal Code §3.21 entitles a defendant to a jury trial of six persons and a unanimous jury verdict. Criminal Code §3.03 requires that all criminal prosecutions be commenced by complaint and sets out the minimal conditions for complaints. Criminal Code §3.17 further entitles defendants to discovery. Criminal Code §3.23(B) entitles defendants to cross examine witnesses. Defendants can compel witness attendance through Criminal Code §3.18. Criminal Code Criminal Code §3.13 entitles every defendant to bail, which is an amount in the judgment of the court to be necessary and sufficient to insure the defendant’s presence at future court proceedings. Criminal Code §3.26 sets fines for misdemeanors at no more than \$5,000. Criminal Code §3.27 sets fines for felonies at no more than \$15,000. Criminal Code §3.26 limits punishment in misdemeanor cases to no more than 1 year in jail. Criminal Code § 3.27 limits punishment for felonies to no more than 3 years in jail or in any criminal proceeding no more than 9 years. All rights in the Criminal Code apply to all defendants, regardless of race, tribal affiliation, or whether charged with a misdemeanor or felony, which avoids any potential equal protection issue. Due process is guaranteed throughout the Criminal Code and Rules of Evidence in addition to

§3.28's explicit incorporation of the Indian Civil Rights Act's rights. Finally, Criminal Code § 3.19(D)(4), which governs arraignments, reads as follows:

The judge shall inform the defendant of his rights, which shall include, but not be limited to, the following:

- a. The right to counsel and the right to a reasonable continuance to obtain counsel. If the defendant cannot afford counsel, one will be appointed for them at the expense of the Confederated Tribes.*
- b. The right to be informed of the charges against him.*
- c. The right to have the Court compel the witnesses against him to appear and testify.*
- d. The right to cross-examine and question the witnesses against him.*
- e. The right to call witnesses in his own behalf and to have the Court issue subpoenas within its jurisdictional limits notifying the witnesses to appear.*
- f. The right to a speedy and public trial.*
- g. The right to a jury trial.*
- h. At trial, the right to testify or not to testify in his own behalf, because he has the privilege against self-incrimination.*
- i. If found guilty, the right to appeal.*
- j. The right to file a writ of habeas corpus in the United States District Court if defendant feels his rights have been violated.*

Tribal Criminal Jurisdiction

- 11.** Will the Tribe exercise SDVCJ over a defendant only for criminal conduct constituting, within the meaning of 25 U.S.C. 1304, either (a) an act of domestic violence or dating violence that occurs in the Indian country of the Tribe, or (b) an act that occurs in the

Indian country of the Tribe and violates the portion of a protection order that (1) prohibits or provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, another person; (2) was issued against the defendant; (3) is enforceable by the Tribe; and (4) is consistent with 18 U.S.C. 2265(b)?* Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. Criminal Code §1.02 reads:

A. Generally. The Umatilla Tribal Court is vested with jurisdiction to enforce all provisions of this Code, as amended from time to time, against any person violating the same within the boundaries of the Confederated Tribes’ Indian country, including any person at any In Lieu Fishing Site or Treaty Fishing Access Site, and against any tribal member exercising treaty hunting and fishing rights beyond the boundaries of the Umatilla Indian Reservation. In the cases where the person in violation of this Code is not an Indian and is not covered by subsection 1.02(B) or (C), the Court’s exercise of power shall be civil rather than criminal and punishment subject only to the applicable fine. The Court is also vested with the power to impose protection orders against non-Indians in accordance with the provisions of this Code.

B. Criminal Jurisdiction Over Non-Indian Domestic or Dating Violence. The Umatilla Tribal Court is vested with jurisdiction to enforce all provisions of this Code against a

* A protection order issued by a state, tribal, or territorial court is consistent with 18 U.S.C. 2265(b) if “such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and . . . reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person’s right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent’s due process rights.” 18 U.S.C. 2265(b).

non-Indian who has committed an act of Dating Violence or Domestic Violence against an Indian victim within the Confederated Tribes' Indian country provided the non-Indian has sufficient ties to the Confederated Tribes.

1. A non-Indian has sufficient ties to the Confederated Tribes for purposes of jurisdiction if they:

a. reside in the Confederated Tribes' Indian country;

b. are employed in the Confederated Tribes' Indian country; or

c. are a spouse, intimate partner, or dating partner of either:

i. a member of the Confederated Tribes, or

ii. a non-member Indian who resides in the Confederated Tribes'

Indian country.

C. Criminal Jurisdiction Over Non-Indian Protection Order Violations. The Umatilla Tribal Court is vested with criminal jurisdiction to enforce all provisions of this Code related to violations of protection orders against a non-Indian who has violated a protection order within the Confederated Tribes' Indian country provided the protected person is an Indian, and following conditions are met:

1. The protection order was issued against the non-Indian,

2. The protection order is consistent with 18 U.S.C. 2265(b), and

3. The violation relates to that portion of the protection order that provides

protection against violent or threatening acts or harassment against, sexual violence

against, contact or communication with, or physical proximity to, the protected person.

Criminal Code §1.01 further defines the following in relation to non-Indian jurisdiction:

W. Dating Violence. For purposes of the exercise of criminal jurisdiction over non-Indians, the term ‘dating violence’ means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

X. Domestic Violence. For the purposes of exercising criminal jurisdiction over non-Indians, the term ‘domestic violence’ means violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic- or family- violence laws of an Indian tribe that has jurisdiction over the Indian country where the violence occurs.

Y. Spouse or Intimate Partner. For purposes of exercising criminal jurisdiction over non-Indians, the term ‘spouse or intimate partner’ has the meaning given the term in section 2266 of title 18, United States Code.

- 12.** In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe convict a non-Indian defendant at trial only if the Tribe proves that the alleged victim is an Indian? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. See above regarding jurisdictional limitations. In addition, as it relates to charging documents, Criminal Code §3.03 (B)(7) and (8) also read as follows in relation to non-Indian prosecutions:

(7) For purposes of crimes involving non-Indian Domestic or Dating Violence the complaint shall also allege, and the prosecution must prove:

- a. That the defendant is a non-Indian,*
- b. That the victim is an Indian,*
- c. That the offense occurred within the Confederated Tribes' Indian country,*
- d. That the defendant has sufficient ties to the Confederated Tribes, such that:*
 - i. The defendant resided in the Confederated Tribes' Indian county at the time of the offense,*
 - ii. The defendant was employed in the Confederated Tribes' Indian country at the time of the offense, or*
 - iii. At the time of the offense, the defendant was a spouse, intimate partner, or dating partner of either*
 - a). A member of the Confederated Tribes, or*
 - b). A non-member Indian who resides in the Confederated Tribes' Indian country.*

8. For purposes of crimes involving non-Indian protection order violations, the complaint shall also allege, and the prosecution must prove:

- a. That the defendant is a non-Indian,*
- b. That the protection order was issued against the defendant,*
- c. That the protected person is an Indian,*
- d. That the violation occurred within the Confederated Tribes' Indian country,*
- e. That the protection order is consistent with 18 U.S.C. 2265(b), and*

f. That the violation relates to that portion of the protection order that provides protection against violent or threatening acts or harassment against, sexual violence against, contact or communication with, or physical proximity to, the protected person.

- 13.** In a criminal proceeding in which the Tribe will exercise SDVCJ, will the Tribe convict a defendant at trial only if the Tribe proves that the defendant resides in the Indian country of the Tribe; is employed in the Indian country of the Tribe; or is a spouse, intimate partner, or dating partner either of a member of the Tribe or of an Indian who resides in the Indian country of the Tribe? Please answer “Yes” or “No.” Please provide relevant legal materials detailing the safeguards that the Tribe’s criminal justice system has in place to protect this right.

Yes. See answer to 11 and 12. Even though not specifically identified in the current Criminal Code, the “substantial ties” requirements detailed in Criminal Code §3.03(B)(8) also applies to non-Indian protection order violation crimes because it is required by 25 U.S.C. §1304(b)(4)(B). The Tribe also requires that the VAWA 2013 jurisdictional elements be plead in the charging document and proven beyond a reasonable doubt. We anticipate these requirements to be more clearly reflected in later amendments to the Criminal Code and are presently clarified by a court directive.

Other Considerations

- 14.** This final question is optional. If the Tribe believes it would be helpful to the Departments of Justice and the Interior in fulfilling their statutory duties related to the Pilot Project, the Tribe may provide any additional information or relevant legal materials addressing the Tribe’s readiness to commence exercising SDVCJ on an accelerated basis

while protecting defendants' rights, consistent with 25 U.S.C. 1304. Additional information or relevant legal materials may focus on any of the following topics: (a) the Tribe's history of compliance with the Indian Civil Rights Act of 1968, as amended; (b) the Tribe's recent history, following the 2010 enactment of 25U.S.C. 1302(b)–(c), of imposing total terms of imprisonment of more than one year; (c) the Tribe's formal or informal policies for coordinating with federal or state criminal investigators and prosecutors in cases where the Tribe may have concurrent criminal jurisdiction; (d) the Tribe's efforts to combat domestic violence and dating violence, including issuing and enforcing protection orders; (e) the Tribe's efforts to protect the rights and safety of victims of domestic violence and dating violence; (f) the Tribe's methods for summoning, selecting, and instructing jurors; (g) the Tribe's efforts to strengthen law enforcement, prosecution, trial and appellate courts, probation systems, detention and correctional facilities, alternative rehabilitation centers, culturally appropriate services and assistance for victims and their families, criminal codes, rules of criminal procedure, rules of appellate procedure, rules of evidence, and the capacity of law enforcement or court personnel to enter information into and obtain information from national crime information databases; (h) the Tribe's needs for training, technical assistance, data collection, and evaluation of the Tribe's criminal justice system; (i) the date on which the Tribe would like to commence exercising SDVCJ under the Pilot Project; (j) the Tribe's plans to notify the public before commencing to exercise SDVCJ; and (k) any other pertinent topic that the Tribe would like the Departments of Justice and the Interior to consider when reviewing the Tribe's Application Questionnaire.

The Confederated Tribes has exercised expansive criminal jurisdiction since the State of Oregon retroceded PL 280 criminal jurisdiction in 1981. Since that time there have been no habeas appeals indicating a violation of the Indian Civil Rights Act. The Confederated Tribes were the first jurisdiction in the nation, along with the State of Ohio, to be found to have substantially implemented the Sex Offender Registration and Notification Act. In March of 2011 the Confederated Tribes of the Umatilla Indian Reservation implemented felony sentencing authority under the Tribal Law and Order Act of 2010 and have exercised that authority several times. Two defendants are presently housed in federal detention facilities under the Bureau of Prisons TLOA Pilot Project. Recently the tribes amended their constitution to create a constitutionally textually based separation of powers between the Court and the Board of Trustees. It also adopted a Court Code based on the separation of powers that sets out judicial qualifications and standards of judicial conduct. It also creates a process for the Court to engage in public rulemaking for matters under its authority. Along with passage of the Court Code, the Tribes adopted a comprehensive set of Rules of Evidence. The Confederated Tribes works closely with the United States Attorney's Office for the District of Oregon, and has an attorney within the Office of Legal Counsel who has been designated a Special Assistant United States Attorney. The Tribes also works closely and collaboratively with the FBI. The Tribes has a Family Violence Program that provides community-based advocacy to domestic violence victims. Part X of the Criminal Code addresses domestic violence. It includes mandatory arrest requirements, predominant aggressor determinations, prevention, notice to victims of certain rights, and a comprehensive process for obtaining protection orders in various circumstances – which meet federal requirements for full faith and credit. The Confederated Tribes is presently in the process of obtaining direct access to

NCIC to ensure its protection orders are entered into the federal criminal database system.

The Confederated Tribes would like to commence exercising special domestic violence criminal jurisdiction over non-Indians as permitted under the 2013 reauthorization of the Violence Against Women Act as soon as possible.

Certifications

The completeness and accuracy of this Application Questionnaire must be certified by (1) the chief executive officer of the Tribe (e.g., the tribal chairperson, president, governor, principal chief, or other equivalent official); (2) the chief judicial officer of the Tribe (e.g., the tribal chief justice, chief judge, or other equivalent official); (3) the chief legal officer of the Tribe (e.g., the tribal attorney general, attorney, general counsel, or other equivalent official); and (4) the person authorized by the Tribe's governing body to be the Tribe's point of contact (POC) for the Department of Justice in this application process. The POC may be either one of the three officers listed above or a fourth individual selected by the Tribe's governing body. **Each of these individuals must sign and certify the Application Questionnaire below.**

Certification of the Tribe's Chief Executive Officer

1. I am the chief executive officer of The Confederated Tribes of the Umatilla Indian Reservation ("the Tribe").
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301– 1304, including the amendments made by VAWA 2013.
3. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. 1304.

Signature: 

Date: 12/13/2013

Name: Leo Stewart

Title or Position: Acting Chairman, Board of Trustees

Address: 46411 Timine Way

City/State/Zip: Pendleton, Oregon 97801

Phone: 541-429-7382

FAX: same

E-mail: LeoStewart@ctuir.org

Certification of the Tribe's Chief Judicial Officer

1. I am the chief judicial officer of the Confederated Tribes of the Umatilla Indian Reservation (“the Tribe”).
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301– 1304, including the amendments made by VAWA 2013.
3. I certify that I have read the final notice on the “Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence” published by the Department of Justice in the **Federal Register** on November 29, 2013.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
5. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants’ rights, consistent with 25 U.S.C. 1304.

Signature:

Date: 12/10/2013

Name: William Johnson

Title or Position: Chief Judge, Umatilla Tribal Court

Address: 46411 Timine Way

City/State/Zip: Pendleton, OR 97801

Phone: 541-429-7348

FAX: same

E-mail: WilliamJohnson@ctuir.org

Certification of the Tribe's Chief Legal Officer

1. I am the chief legal officer of Confederated Tribes of the Umatilla Indian Reservation (“the Tribe”).
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301– 1304, including the amendments made by VAWA 2013.

3. I certify that I have read the final notice on the “Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence” published by the Department of Justice in the **Federal Register** on November 29, 2013.
4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
5. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the criminal justice system of the Tribe has adequate safeguards in place to protect defendants’ rights, consistent with 25 U.S.C. 1304.

Signature: 
Date: 12/10/2013
Name: Naomi Stacy
Title or Position: Lead Attorney, Office of Legal Counsel
Address: 46411 Timine Way
City/State/Zip: Pendleton, OR 97801
Phone: 541-429-7405
FAX: same
E-mail: NaomiStacy@ctuir.org

*Certification of the Tribe’s **Point of Contact***

1. I have been authorized by the governing body of the Confederated Tribes of the Umatilla Indian Reservation (“the Tribe”) to serve as the Tribe’s point of contact (POC) with the Department of Justice for purposes of the VAWA Pilot Project.
2. I certify that I have read the Indian Civil Rights Act, as amended, 25 U.S.C. 1301– 1304, including the amendments made by VAWA 2013.
3. I certify that I have read the final notice on the “Pilot Project for Tribal Jurisdiction over Crimes of Domestic Violence” published by the Department of Justice in the **Federal Register** on November 29, 2013.

4. I certify that, to the best of my knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the answers to this Application Questionnaire are complete and accurate.
5. I certify that, to assist the Department of Justice in fulfilling its statutory duty to determine whether the criminal justice system of the Tribe has adequate safeguards in place to protect defendants' rights, consistent with 25 U.S.C. 1304, I will make best efforts, for the remainder of the Pilot Project's duration (i.e., prior to March 7, 2015), to promptly answer written or oral questions from the Departments of Justice and the Interior about the Tribe's criminal justice system; to promptly update any answers to this become incomplete, inaccurate, or outdated; to promptly fix any omissions in the Application Questionnaire; and to promptly submit to the Department of Justice any additions, deletions, or corrections to the Application Questionnaire.

Signature: 

Date: 12/06/2013

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